

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

BILL B

LLS NO. 17-0148.01 Jane Ritter x4342

SENATE BILL

SENATE SPONSORSHIP

Martinez Humenik,

HOUSE SPONSORSHIP

Singer,

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASING MEDICATION CONSISTENCY FOR PERSONS**
102 **WITH MENTAL ILLNESS IN THE CRIMINAL AND JUVENILE JUSTICE**
103 **SYSTEMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems. The bill implements recommendations from the task force concerning the treatment of persons with mental illness in the criminal and juvenile justice systems and the medication consistency work group

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of the behavioral health transformation council to promote increased medication consistency for persons with mental illness in the criminal and juvenile justice systems. The recommendations include:

- Requiring the unit and office within the department of human services that administers behavioral health programs (OBH), including those related to mental health and substance use, and the department of corrections to promulgate rules that require providers under each department's authority to use an agreed upon medication formulary (formulary) by mental health providers and justice system providers (providers);
- Requiring OBH to conduct annual and biannual reviews of the formulary to address any urgent concerns related to the formulary, update the formulary, and ensure compliance with the medicaid formulary;
- Requiring the department of corrections, county jails, community mental health centers, the division of youth corrections, and other providers to share patient-specific mental health care and treatment information, provided federal and state confidentiality requirements are met;
- Requiring OBH and relevant providers to develop a plan for electronically sharing patient-specific mental health care and treatment information across systems;
- Requiring OBH to encourage providers to utilize cooperative purchasing for the formulary to maximize statewide cost savings;
- Encouraging the pharmaceutical cooperative purchasing entity to include an ongoing drug utilization review process;
- Requiring OBH to investigate and develop options for collaboration with local county jails to coordinate medication purchasing. Based on that information, the behavioral health transformation council shall develop a medication purchasing plan on or before July 1, 2017; and
- Requiring the department of human services and the department of corrections to report progress on the implementation and use of the medication formulary and cooperative purchasing as part of each department's "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing, beginning in January 2018 and annually thereafter.

1 **SECTION 1.** In Colorado Revised Statutes, **add** article 70 to title
2 27 as follows:

3 **ARTICLE 70**

4 **Medication Consistency for Persons with Mental Illness**
5 **in the Criminal and Juvenile Justice Systems**

6 **27-70-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
7 FINDS AND DECLARES THAT:

8 (a) THE LACK OF MEDICATION CONSISTENCY FOR INDIVIDUALS
9 WITH MENTAL ILLNESS WHO ARE INVOLVED IN THE CRIMINAL AND
10 JUVENILE JUSTICE SYSTEMS CREATES ADDITIONAL, OFTEN SERIOUS,
11 PROBLEMS FOR THESE INDIVIDUALS;

12 (b) IT IS CRITICAL THAT THE STATE INCREASE THE LIKELIHOOD
13 THAT A BROAD SPECTRUM OF EFFECTIVE MEDICATIONS, INCLUDING
14 PSYCHOTROPIC MEDICATIONS, ARE AVAILABLE TO THESE INDIVIDUALS,
15 REGARDLESS OF SETTING OR SERVICE PROVIDER;

16 (c) BY WORKING COOPERATIVELY WITH THE CRIMINAL AND
17 JUVENILE JUSTICE SYSTEMS AND MENTAL HEALTH SERVICE PROVIDERS,
18 THE STATE CAN HELP ENSURE MEDICATION CONSISTENCY AND ALSO
19 DECREASE OVERALL STATE COSTS THROUGH THE USE OF A COMMON AND
20 AGREED UPON MEDICATION FORMULARY AND COOPERATIVE PURCHASING;

21 (d) THE MEDICATION CONSISTENCY WORK GROUP OF THE
22 BEHAVIORAL HEALTH TRANSFORMATION COUNCIL IDENTIFIED MENTAL
23 HEALTH MEDICATIONS THAT ARE ESSENTIAL AND PREFERRED FOR A BASIC
24 MEDICATION FORMULARY THAT COULD BE USED ACROSS ALL PUBLIC
25 SYSTEMS TO INCREASE MEDICATION CONTINUITY FOR PERSONS WITH
26 MENTAL ILLNESS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS; AND

27 (e) INCREASING INFORMATION SHARING ACROSS SYSTEMS AND

1 SERVICE PROVIDERS ABOUT THE IMPORTANCE OF MEDICATION
2 CONSISTENCY AND THE USE OF A COMMON AND AGREED UPON MEDICATION
3 FORMULARY AND COOPERATIVE PURCHASING WILL RESULT IN LONG-TERM
4 BENEFITS FOR THE STATE AND FOR PERSONS WITH MENTAL ILLNESS WHO
5 ARE INVOLVED IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS.

6 **27-70-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES
9 CREATED IN SECTION 26-1-105.

10 (2) "FACILITY" MEANS A PUBLIC HOSPITAL OR A LICENSED PRIVATE
11 HOSPITAL, FEDERALLY QUALIFIED HEALTH CARE CENTER, CLINIC,
12 COMMUNITY MENTAL HEALTH CENTER OR CLINIC, INSTITUTION, ACUTE
13 TREATMENT UNIT, JAIL, FACILITY OPERATED BY THE DEPARTMENT OF
14 CORRECTIONS, OR A FACILITY OPERATED BY THE DIVISION OF YOUTH
15 CORRECTIONS.

16 (3) "MEDICATION FORMULARY" MEANS THE MEDICATION
17 FORMULARY ESTABLISHED PURSUANT TO SECTION 27-70-103 FOR USE BY
18 PROVIDERS.

19 (4) "PROVIDER" MEANS ANY PERSON, FACILITY, OR GOVERNMENT
20 ENTITY RESPONSIBLE FOR PROVIDING MENTAL HEALTH SERVICES RELATED
21 TO THE CARE AND TREATMENT OF A PERSON WITH MENTAL ILLNESS WHO
22 IS OR WAS INVOLVED WITH THE CRIMINAL OR JUVENILE JUSTICE SYSTEM.

23 (5) "UNIT", ALSO KNOWN AS THE "OFFICE OF BEHAVIORAL
24 HEALTH", MEANS THE UNIT IN THE DEPARTMENT THAT ADMINISTERS
25 BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE
26 RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

27 **27-70-103. Medication consistency for persons with mental**

1 **illness in the criminal and juvenile justice systems - medication**
2 **formulary - cooperative purchasing - reporting.** (1) (a) BEGINNING
3 JULY 1, 2017, THE DEPARTMENT OF HUMAN SERVICES AND THE
4 DEPARTMENT OF CORRECTIONS SHALL PROMULGATE RULES THAT REQUIRE
5 PROVIDERS UNDER EACH DEPARTMENT'S AUTHORITY TO USE A
6 MEDICATION FORMULARY THAT HAS BEEN DEVELOPED COLLABORATIVELY
7 BY DEPARTMENTS, AGENCIES, AND PROVIDERS. THE DEPARTMENTS SHALL
8 ALSO DEVELOP PROCESSES FOR EDUCATION AND MARKETING RELATED TO
9 INFORMATION REGARDING THE MEDICATION FORMULARY AND
10 COOPERATIVE PURCHASING OPPORTUNITIES FOR FACILITIES AND
11 PROVIDERS.

12 (b) ON OR BEFORE JULY 1, 2018, AND EVERY JULY 1 OF EVERY
13 EVEN-NUMBERED YEAR THEREAFTER, THE UNIT SHALL CONDUCT A REVIEW
14 OF THE MEDICATION FORMULARY TO ADDRESS ANY URGENT CONCERNS
15 RELATED TO THE FORMULARY AND TO PROPOSE UPDATES TO THE
16 FORMULARY. DURING THIS REVIEW, THE UNIT SHALL ALSO CREATE THE
17 APPROPRIATE NOTIFICATION PROCESS FOR UPDATES TO THE FORMULARY.

18 (c) ON OR BEFORE JULY 1, 2019, AND EVERY TWO YEARS
19 THEREAFTER AS NECESSARY, THE UNIT SHALL CONDUCT A REVIEW OF THE
20 MEDICATION FORMULARY TO UPDATE THE MEDICATION FORMULARY AND
21 ENSURE COMPLIANCE WITH THE MEDICAID FORMULARY USED BY THE
22 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

23 (2) (a) FOR THE SOLE PURPOSE OF ENSURING MEDICATION
24 CONSISTENCY FOR PERSONS WITH MENTAL ILLNESS IN THE CRIMINAL AND
25 JUVENILE JUSTICE SYSTEMS, THE DEPARTMENT OF CORRECTIONS,
26 COUNTIES, THE DIVISION OF YOUTH CORRECTIONS, COMMUNITY MENTAL
27 HEALTH CENTERS, AND OTHER PROVIDERS SHALL SHARE PATIENT-SPECIFIC

1 MENTAL HEALTH AND TREATMENT INFORMATION. ALL SUCH INFORMATION
2 SHARING MUST COMPLY WITH CONFIDENTIALITY REQUIREMENTS,
3 INCLUDING ANY NECESSARY MEMORANDUMS OF UNDERSTANDING
4 BETWEEN PROVIDERS, SET FORTH IN THE FEDERAL "HEALTH INSURANCE
5 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 45 CFR PARTS 2, 160,
6 162, AND 164.

7 (b) ON OR BEFORE JULY 1, 2017, THE UNIT, IN COLLABORATION
8 WITH THE OFFICE OF INFORMATION TECHNOLOGY, THE OFFICE OF E-HEALTH
9 INNOVATION, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING,
10 THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF CORRECTIONS,
11 AND OTHER AGENCIES AS APPROPRIATE, SHALL DEVELOP A PLAN BY WHICH
12 THE PATIENT-SPECIFIC INFORMATION REQUIRED BY SUBSECTION (2)(a) OF
13 THIS SECTION CAN BE SHARED ELECTRONICALLY, WHILE STILL IN
14 COMPLIANCE WITH CONFIDENTIALITY REQUIREMENTS, INCLUDING ANY
15 NECESSARY MEMORANDUMS OF UNDERSTANDING BETWEEN PROVIDERS,
16 SET FORTH IN THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
17 ACCOUNTABILITY ACT OF 1996", 45 CFR PARTS 2, 160, 162, AND 164.

18 (3) (a) THE UNIT SHALL ENCOURAGE PROVIDERS THAT HAVE BEEN
19 GRANTED PURCHASING AUTHORITY BY THE DEPARTMENT OF PERSONNEL
20 PURSUANT TO SECTION 24-102-204 TO UTILIZE COOPERATIVE PURCHASING
21 FOR THE MEDICATION FORMULARY, AS AUTHORIZED PURSUANT TO
22 SECTION 24-110-201, UNLESS THE PROVIDER CAN OBTAIN THE MEDICATION
23 ELSEWHERE AT A LOWER COST. THE USE OF COOPERATIVE PURCHASING
24 MAY, AND IS ENCOURAGED TO, INCLUDE EXTERNAL PROCUREMENT
25 ACTIVITY, AS DEFINED IN SECTION 24-110-101 (2), IF THE EXTERNAL
26 PROCUREMENT ACTIVITY AGGREGATES PURCHASING VOLUME TO
27 NEGOTIATE DISCOUNTS WITH MANUFACTURERS, DISTRIBUTORS, AND

1 OTHER VENDORS.

2 (b) ANY EXTERNAL PROCUREMENT ACTIVITY, AS DEFINED IN
3 SECTION 24-110-101 (2), USED BY PROVIDERS FOR PURPOSES OF THIS
4 ARTICLE IS ENCOURAGED TO INCLUDE AN ONGOING DRUG UTILIZATION
5 REVIEW PROCESS. THE PURPOSE OF THE REVIEW PROCESS IS TO HELP
6 ENSURE A STRUCTURED, ONGOING REVIEW OF HEALTH CARE PROVIDER
7 PRESCRIBING, PHARMACIST DISPENSING, AND PATIENT USE OF MEDICATION.
8 THE REVIEW MUST INCLUDE A COMPREHENSIVE ANALYSIS OF PATIENTS'
9 PRESCRIPTION AND MEDICATION DATA TO HELP ENSURE APPROPRIATE
10 MEDICATION DECISION-MAKING AND POSITIVE PATIENT OUTCOMES BY
11 PROVIDING EDUCATIONAL FEEDBACK TO PROVIDERS ON APPROPRIATE
12 MEDICATION UTILIZATION.

13 (4) THE UNIT SHALL INVESTIGATE AND DEVELOP OPTIONS FOR
14 COLLABORATION WITH LOCAL COUNTY JAILS TO COORDINATE MEDICATION
15 PURCHASING. BASED ON THE INFORMATION FROM THE UNIT, THE
16 BEHAVIORAL HEALTH TRANSFORMATION COUNCIL, ESTABLISHED IN
17 SECTION 27-61-102, SHALL DEVELOP A MEDICATION PURCHASING PLAN ON
18 OR BEFORE JULY 1, 2017.

19 (5) BEGINNING IN JANUARY 2018, AND EVERY JANUARY
20 THEREAFTER, THE DEPARTMENT OF HUMAN SERVICES AND THE
21 DEPARTMENT OF CORRECTIONS SHALL REPORT PROGRESS ON THE
22 IMPLEMENTATION AND USE OF THE MEDICATION FORMULARY AND
23 COOPERATIVE PURCHASING AS PART OF EACH DEPARTMENT'S "STATE
24 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
25 (SMART) GOVERNMENT ACT" HEARING REQUIRED BY SECTION 2-7-203.
26 EACH DEPARTMENT SHALL MAKE SUCH REPORTS TO THE JOINT HEALTH
27 AND HUMAN SERVICES COMMITTEE AND THE JOINT JUDICIARY COMMITTEE,

1 OR ANY SUCCESSOR COMMITTEES.

2 **SECTION 2. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2018 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.